

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON**

LISA BECKETT,

Plaintiff,

v.

CIVIL ACTION NO.: 3:21-cv-00388
[Removal of Civil Action No. 21-C-228 from
the Circuit Court of Cabell County]

MOUNTWEST FOUNDATION, INC.,

Defendant.

NOTICE OF REMOVAL

NOW COMES the Defendant, Mountwest Foundation, Inc., by counsel, Wendy E. Greve and the law firm of Pullin, Fowler, Flanagan, Brown & Poe, PLLC, and pursuant to 28 U.S.C. §§ 1331, 1391, 1441 and 1446, give notice of removal of this action from the Circuit Court of Cabell County, West Virginia, Civil Action No. 21-C-228, to the United States District Court for the Southern District of West Virginia, and in support hereby state as follows:

1. That Plaintiff Lisa Beckett filed her Complaint in the above-captioned civil action in the Circuit Court of Cabell County, West Virginia, on or about June 11, 2021, where it was assigned Civil Action Number 21-C-228. See Complaint attached hereto as Exhibit 1.

2. Defendant was served with the Complaint via certified United States Mail on June 15, 2021. See Docket Sheet, attached hereto as Exhibit 2.

3. In accordance with 28 USC 1446(a), the Defendant states that the only process, pleadings, or orders in this matter are the Summons and Complaint. See Docket Sheet for 21-C-228 attached hereto as Exhibit 2.

4. This Notice of Removal is timely under 28 USC §1446(b) because the Summons and Complaint were served upon the Defendant through the United States Mail,

certified mail, and Defendant received the Complaint on June 15, 2021, and this Notice of Removal is filed within thirty (30) days after service of the Summons and Complaint. Further, it is filed within one year of commencement of this action.

5. That Plaintiff alleges that she is a citizen of Cabell County, West Virginia. See Complaint, Exhibit 1.

6. That Defendant resides and/or does business in Cabell County, West Virginia.

7. According to her Complaint, Plaintiff has asserted the following causes of action: violations of The Family and Medical Leave Act (FMLA); violation of West Virginia public policy; and tortious interference with prospective employment.

8. According to 28 U.S.C. § 1331, “The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”

9. The following claim of the Plaintiff arises under the laws of the United States: to wit, violation of FMLA 29 USC 2617.

10. According to 28 U.S.C. § 1441(c), “If a civil action includes (A) a claim arising under the Constitution, laws, or treaties of the United States (within the meaning of section 1331 of this title), and (B) a claim not within the original or supplemental jurisdiction of the district court or a claim that has been made non-removable by statute, the entire action may be removed if the action would be removable without the inclusion of the claim described in subparagraph (B).”

11. Pursuant to 28 U.S.C. § 1441(c), removal is proper as the Plaintiffs’ civil action arises under the laws of the United States, i.e., 29 USC 2617 and the Plaintiff’s

claims are not claims that have been made non-removable by statute.

12. Pursuant to 28 U.S.C. § 1441(a), any civil action brought in a State of which the district courts of the United States have jurisdiction may be removed by the Defendants(s) to the district court of the United States for the district and division embracing where such action is pending.

13. That pursuant to 28 U.S.C. § 1391, venue is proper in the Southern District of West Virginia because a substantial part of the events or omissions giving rise to the claims contained in the Complaint allegedly occurred in this District and Cabell County which is situated in this District.

14. Removal of this action to this Court is also proper pursuant to 28 U.S.C. § 1446(b)(2)(A) as Defendant has consented to removal. Specifically, Defendant is represented by the undersigned and consents to removal.

15. Pursuant to 28 U.S.C. § 1446(d), prompt written notice of this Petition for Removal is being provided to Plaintiff, through counsel of record, and to the Clerk of Court for the Circuit Court of Cabell County, West Virginia. A Notice to All Parties and Circuit Court of Filing of Notice of Removal is attached hereto as Exhibit 3.

WHEREFORE, Defendant submits that this matter is properly removed from the Circuit Court of Cabell County, West Virginia, to this Court.

Mountwest Foundation, Inc.
By Counsel,

/s/ Wendy E. Greve
Wendy E. Greve, WV State Bar No. 6599

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CERTIFICATE OF SERVICE

The undersigned, counsel of record for Defendant, does hereby certify on this 7th day of July 2021, that a true copy of the foregoing "*Notice of Removal*" was served upon opposing counsel by depositing same to them in the U.S. Mail, postage prepaid, sealed in an envelope, and addressed as follows:

Hoyt E. Glazer, Esquire
Glazer Saad Anderson L.C,
P.O. Box 1638
Huntington, WV 25717
Counsel for Plaintiff

/s/ Wendy E. Greve

Wendy E. Greve, WV State Bar No. 6599

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